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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. BILLI ANNE RAINING BIRD MORSETTE, Defendant.	CR 15-40-GF-BMM CR 15-61-GF-BMM <u>RESPONSE TO DEFENDANT</u> <u>MORSETTE'S MOTION FOR</u> <u>RELEASE PENDING TRIAL</u> (Title 18 U.S.C. § 3142)
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The United States of America, by and through its counsel, Carl E. Rostad, Assistant U.S. Attorney for the District of Montana, provides this Court with its reply and opposition to the motion of defendant Billi Anne Raining Bird Morsette (Morsette) for release pending trial. CR 15-40-GF (Doc. 28); CR 15-61-GF (Doc. 22); 18 U.S.C. § 3142.

I. Introduction and Procedural History

Morsette was first indicted in CR 15-40-GF-BMM on July 17, 2015. She appeared pursuant to a summons and was released on conditions on August 25, 2015 (Doc. 13). During that first appearance Morsette advised the U.S. Probation Office that she had consumed marijuana, contraband pharmaceuticals (opiates), and methamphetamine.

Morsette was indicted again in CR 15-61-GF-BMM on September 18, 2015. Having reason to believe that Morsette was violating the terms of her earlier release based upon continued illegal drug use, the United States requested and obtained an arrest warrant on the new indictment. Morsette was arrested and was again released on conditions on September 21, 2015, having assured the Magistrate Court that she would, on her own, seek chemical dependency assistance (Doc. 7).

Two weeks later, on October 7, 2015, the U.S. Probation Office petitioned the Court for an arrest warrant based upon Morsette's continued drug use. CR

15-40; Doc. 24. She was arrested and appeared on October 15, 2015. At that time, the U.S. Magistrate Court revoked her release and remanded her pending trial (Doc. 27).

Morsette now moves for release. As the defendant notes in her motionK the Magistrate Court indicated, at the time release was revoked, that the Court would entertain a motion for release provided that Morsette “verify that she has inpatient treatment set up in a qualified facility.” CR 15-61; Doc. 22, Morsette Motion, p. 1.

II. Argument

The Bail Reform Act mandates the release of a person pending trial unless the Court “finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person in the community.” 18 U.S.C. § 3142(e). At this point, the Court has determined that without a custodial alternative, there are no conditions that will reasonably assure the defendant’s appearance or the safety of others.

To her motion, Morsette attached an evaluation from a local counseling firm. Neither the defendant’s motion nor the evaluation contemplates Morsette’s transfer to an in-patient environment. Therefore, the Court is again asked to release the defendant into an unrestricted environment to apparently see how she does, and if

she does poorly, only then referring her to in-patient treatment; which may or may not be available at the time her return to drug abuse becomes apparent.

Until the release of the defendant is directly into another quasi-custodial situation, where she can remain free of illegal drug use, there are no conditions that will assure her appearance.

DATED this 9th day of November, 2015.

MICHAEL W. COTTER
United States Attorney

/s/ Carl E. Rostad
CARL E. ROSTAD
Assistant U.S. Attorney
Attorneys for Plaintiff

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule, this certifies that the attached response contains 622 words.

MICHAEL W. COTTER
United States Attorney

/s/ Carl E. Rostad
CARL E. ROSTAD
Assistant U.S. Attorney
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